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VIA ECF

RE: *In re Levothyroxine Antitrust Litigation* (all actions), consisting of:

1199SEIU National Benefit Fund v. Lannett Company, Inc. and Mylan Pharmaceuticals, Inc., Case. No. 16-cv-9666 (KMW);

Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund v. Lannett Co., Inc. et al., Civ. No. 16-9890 (KMW);

FWK Holdings, L.L.C. v. Lannett Company, Inc, et al., Civ. No. 16-9900 (KMW);

Cesar Castillo, Inc. v. Lannett Company, Inc, et al., Civ. No. 16-9949 (KMW); and

American Federation of State, County and Municipal Employees District Council 37 Health & Security Plan v. Lannett Co., Inc. et al., Civ. No. 17-643 (pending assignment).

Dear Judge Wood:

Lieff Cabraser Heimann & Bernstein, LLP and Zwerling, Schachter & Zwerling, LLP represent individual and representative plaintiffs 1199SEIU National Benefit Fund ("1199SEIU") in the first-filed above-captioned case (Case No. 16-9666), and American Federation of State, County and Municipal Employees District Council 37 Health & Security Plan ("DC 37") in the most recently-filed above-captioned case (Case No. 17-643). 1199SEIU is based in New York City and is among the largest labor-management funds in the nation. DC 37 is New York City's largest public employee union.

We write for three reasons: first, to clarify the Court's Pretrial Order No. 1, which the Court entered on January 24, 2017 in *Cesar Castillo, Inc. v. Lannett Company, Inc., et al.*, Civ. No. 16-9949 (KMW) (Dkt. No. 11); second, to propose consolidating the three pending Initial Conferences into a single conference; and third, to request that the Court permit a motion for appointment of a Leadership Structure in advance of the proposed consolidated Initial Conference.

I. Background

On December 14, 2016, 1199SEIU filed a complaint that, for the first time in any criminal or civil proceeding, alleged a price-fixing conspiracy regarding generic levothyroxine. Levothyroxine is among the most prescribed drugs in the United States, and is the primary treatment for hypothyroidism. 1199SEIU filed suit on its own behalf and on behalf of a proposed class of end-payors of generic levothyroxine. The action resulted from years of independent investigation by counsel, including significant economic analysis.

Four additional cases alleging a price-fixing conspiracy regarding generic levothyroxine were filed shortly thereafter in the Southern District of New York (captioned above). Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund (Case No. 16-9890) and DC 37 (Case No. 17-643) filed on behalf of end-payors, while FWK Holdings, L.L.C. (Case No. 16-9900) and Cesar Castillo, Inc. (Case No. 16-9949) filed cases on behalf of direct purchasers (collectively, "Related Actions"). With their complaints, all four plaintiffs filed Statements of Relatedness, confirming that these actions bring antitrust claims against the same or similar parties alleging violations of law based on the same transactions and events concerning generic levothyroxine, involving substantial factual overlap, and absent relatedness would result in conflicting orders and unnecessary duplication of effort and expense.[1]

Counsel for 1199SEIU and DC 37 conferred with plaintiffs' counsel and defense counsel in the Related Actions regarding consolidation issues. Counsel for all parties agreed upon a stipulation and proposed Pretrial Order No. 1. On January 8, 2017, counsel for 1199SEIU and DC 37 emailed the stipulation and proposed Pretrial Order No. 1 to the Orders and Judgments Clerk (copies of which are attached as Exhibits A and B).

On January 13, 2017, the Court scheduled three initial conferences, one for each of the first three filed cases: February 16, 2017 at 5:00pm (for Case No. 16-9666); February 16, 2017 at 1:00pm (for Case No. 16-9890); and February 17, 2017 at 1:15pm (for Case No. 16-9900).

On January 24, 2017, the Court entered the proposed Pretrial Order No. 1 in the most recently-filed case (Case No. 16-9949, Dkt. No. 11), and omitted the first page of the proposed order that contained the captions of the first three cases (see Exhibit B, attached). The Court designated the third-filed case (Case No. 16-9900) as the Master Docket, and related Cases Nos. 16-9666 and 16-9949 to it. The second-filed case, Case No. 16-9890, remains related only to the first-filed case, Case No. 16-9666.

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[1] After these cases (aside from DC 37's case) were filed in the Southern District of New York, two additional actions alleging a conspiracy to fix the prices of generic levothyroxine were filed in the Eastern District of Pennsylvania: *Rochester Drug Co-Operative, Inc. v. Lannett Co., Inc., et al.*, Civ. No. 16-6671 (CMR) (a direct purchaser action) and *International Union of Operating Engineers, Locals 302 and 612 Construction Industry Health and Security Fund v. Lannett Co., Inc. and Mylan Pharmaceuticals Inc.*, Civ. No. 17-293 (CMR) (an end-payor action).

II. Clarification of Pretrial Order No. 1

1199SEIU and DC 37 respectfully suggest that the Court consider entering the full proposed Pretrial Order No. 1 in all five related actions. In addition, 1199SEIU and DC 37 respectfully suggest that the Court consider relating Case No. 16-9890 and Case No. 17-643 to the Master Docket.

III. Consolidated Initial Conference

1199SEIU and DC 37 request that the Court consolidate the three currently-scheduled Initial Conferences to a single Consolidated Initial Conference. Counsel for 1199SEIU and DC 37 has conferred with counsel for the parties, and has received no objection to requesting that a Consolidated Initial Conference take place from March 1 through March 3, 2017, at a date and time convenient for the Court.

IV. Appointment of Leadership Structure

Pretrial Order No. 1 provides that "Direct-Purchaser Plaintiffs and End-Payor Plaintiffs shall file their respective Consolidated Class Action Complaints within 60 days of the Court's appointment of Leadership Structures for the Consolidated Direct-Purchaser Actions and for the Consolidated End-Payor Purchaser Plaintiffs' Actions." (Case No. 16-9949, Dkt. No. 11, at p.3.) This and other events set out in the Pretrial Order begin with the Court's appointment of Leadership Structures. Accordingly, 1199SEIU and DC 37 request permission to file a motion for appointment of a Leadership Structure in advance of the proposed consolidated Initial Conference.

Very truly yours,

Dean M. Harvey

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